

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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MICHAEL T. BENSON,

Plaintiff,

vs.

HARTFORD LIFE AND ACCIDENT  
INSURANCE COMPANY,

Defendant.

MEMORANDUM DECISION AND  
ORDER RETURNING THE MATTER  
TO THE MAGISTRATE JUDGE

Case No. 2:10-CV-275 TS

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This matter is before the Court on Defendant's Objection to the Magistrate Judge's Discovery Order.<sup>1</sup> In his Discovery Order, the Magistrate Judge allowed discovery in this ERISA case.<sup>2</sup> In its initial objection, Defendant argued that discovery was inappropriate and that the scope of discovery permitted by the Magistrate Judge was overly broad.

After the parties completed their briefing on Defendant's Objection, the Tenth Circuit Court of Appeals issued its decision in *Murphy v. Deloitte & Touche Group Insurance Plan*.<sup>3</sup> In

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<sup>1</sup>Docket No. 24.

<sup>2</sup>Docket No. 20.

<sup>3</sup>2010 WL 3489673 (10th Cir. Sept. 8, 2010).

that case, the Tenth Circuit “clarif[ied] the appropriate standard for discovery related to a dual role conflict of interest.”<sup>4</sup> The parties have now submitted supplemental briefing on the impact of *Murphy* on the Magistrate Judge’s Discovery Order.

Having reviewed the parties’ arguments, including their supplemental briefs, the Court finds that the most sensible approach is to return this matter to the Magistrate Judge for further proceedings. Rather than this Court reviewing the Magistrate Judge’s Discovery Order in light of *Murphy*, a decision not available when the Magistrate Judge made his decision, the Court finds it appropriate to return this matter to the Magistrate Judge so that he may consider *Murphy* in the first instance.

It is therefore

ORDERED that this matter be returned to the Magistrate Judge for further proceedings.

The hearing set for October 18, 2010, is STRICKEN.

DATED October 5, 2010.

BY THE COURT:

A handwritten signature in black ink, appearing to read "T. Stewart", is written over a horizontal line.

TED STEWART  
United States District Judge

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<sup>4</sup>*Id.* at \*4.